

# Higher Education Residency Requirements

Second Follow-up Report  
July 2007

Office of Performance Evaluations  
Idaho Legislature



Report 07-03F

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Rakesh Mohan, Director  
Office of Performance Evaluations

### **Acknowledgments**

We appreciate the cooperation and assistance we received from the Board of Education and the four higher education institutions. Jared Tatro and Ned Parrish of the Office of Performance Evaluations conducted this follow-up review. We contracted with Dr. Kathleen Sullivan to perform quality assurance for this project.

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# Higher Education Residency Requirements

## *Second Follow-up Report*

*In 2004, we completed a review of the residency determination process at each of Idaho's four-year higher education institutions. We offered three recommendations designed to clarify legislative intent, ensure uniformity of residency requirements, and improve the accuracy of student residency determinations. In this second follow-up review, we found that the State Board of Education and the institutions have made little progress in addressing recommendations. The Legislature, however, made efforts to revise the residency statute in the 2007 session, generating a public policy debate on Idaho's residency law.*

### **Background**

In November 2002, lawmakers requested a review of the residency determination process because of concerns about (1) whether institutions were applying residency requirements accurately and uniformly; and (2) whether the State of Idaho was subsidizing the education of nonresident students who were inappropriately granted residency.

An improper determination of students' residency status can significantly affect the cost of their education. Based on tuition and fees for 2007–2008, we estimate that nonresident students will pay between \$29,160 and \$40,320 more than an Idaho resident for the same four-year degree. Idaho Code § 33-3717B(1) outlines criteria for determining student residency at Idaho's four-year higher education institutions: Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho.

Our 2004 evaluation, *Higher Education Residency Requirements*, listed three recommendations designed to clarify legislative intent, promote uniformity in the residency determination process, and improve the accuracy of residency determinations. This follow-up review assesses the State Board of Education, higher education institutions, and legislative efforts since our first follow-up review in August 2006. Appendix A is the State Board of Education's assessment of current efforts to address our recommendations.

## Clarifying Statutory Requirements for Residency

*Recommendation 1: The Legislature should consider amending Idaho Code to clarify:*

- a. Whether full-time, nonresident students are presumed to be in Idaho primarily for educational purposes—unless they clearly demonstrate they are primarily engaged in activities other than those of a student*
- b. Whether nonresident students must establish and maintain a domicile in Idaho for 12 months in order to qualify for residency*
- c. Whether students who are granted residency on the basis of their parents' Idaho domicile should be financially dependent upon their resident parents and be under a certain age*
- d. The factors needed to show that domicile has been established primarily for purposes other than education, including any weighting of the factors*

During the 2007 legislative session, the co-chairs of the Joint Legislative Oversight Committee introduced House Bill 219 to clarify and strengthen Idaho's residency law. The bill passed the House, but it was later held in the Senate Education Committee. While clarification to Idaho Code was not made, the bill generated a public policy debate on Idaho's residency law.

**Status:** This recommendation remains **open for legislative consideration** because the requirements for students to obtain residency have not been clarified.

## Establishing a Uniform Process for Residency Determinations

*Recommendation 2a: The State Board of Education should address the lack of uniformity in determining residency and other related issues by amending its administrative rules to provide a uniform residency determination process.*

Idaho Code § 33-3717B(4) states that “the State Board of Education...shall adopt *uniform* and *standard* rules...to determine resident status of any student and to establish procedures for the review of that status” [emphasis added]. The board recognizes that institutions are not interpreting statutes and rules in the same manner. However, the board has not taken steps to modify its rules or establish a uniform process for determining residency at the four institutions.

The board previously reported that it would draft rules to clarify the process by 2007 so policymakers could consider the rule changes during the 2008

legislative session. The board now reports that it will not amend its rules until *after* the Legislature has modified the statutes pertaining to the residency determination process.

*Recommendation 2b: The State Board of Education should address the lack of uniformity in determining residency and other related issues by modifying the statewide Application for Admission form to conform to state law and rules.*

In the 2006 follow-up review, the board reported that it would work with the institutions to develop a standardized application. This application would be used by all the institutions in gathering information when determining high-risk residency cases.<sup>1</sup> The board expected to have the application completed by fall 2006. The board now reports that it will develop this application by January 2008.

*Recommendation 2c: The State Board of Education should address the lack of uniformity in determining residency and other related issues by setting nonresident fees for part-time students in the same manner as for full-time students.*

Our initial 2004 study found that the University of Idaho and Idaho State University were charging fees correctly, requiring all nonresident students, full-time or part-time, to pay higher tuition and fees than resident students. Boise State University and Lewis-Clark State College were allowing nonresident part-time students to attend the institution at the same rate as residents, and these institutions have not yet made changes to their process.

**Status:** This recommendation has **not been implemented** because the board has not established a uniform process for residency determinations.

## Establishing Procedures to Ensure Accurate Residency Determinations

*Recommendation 3a: Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho should improve their residency determination process by implementing quality assurance measures that identify high-risk residency determination cases for further review.*

In our 2004 study and subsequent 2006 follow-up review, we found that although the institutions had made some progress, they had not established adequate controls over the residency determination process. Recently, Lewis-

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<sup>1</sup> High-risk cases are those in which students claim residency although there are indicators (such as an out-of-state mailing address on the application form) that suggest they may be nonresidents.

Clark State College has modified its approach to dealing with high-risk cases. It now automatically denies high-risk requests for change of residency status and informs the students that they can appeal to the school's petition committee.<sup>2</sup> The board says it is hopeful that by working with the institutions and individual legislators, it will be able to better define residency determination procedures.

*Recommendation 3b: Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho should improve their residency determination process by collecting information that addresses all residency factors listed in statute and rules, and basing residency determinations on full consideration of these factors.*

The board anticipates that by changing statute and creating the standardized application as described earlier, this recommendation will be addressed.

**Status:** This recommendation has **not been implemented**.

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<sup>2</sup> The other three institutions continue to inconsistently assess high-risk residency determination cases. We asked the board for any updated or additional information on the institutions' procedures since the first follow-up review, but the board reported that it had nothing new.

*Appendix A*

# **Updates of Implementation Efforts**







## IDAHO STATE BOARD OF EDUCATION

650 W. State Street • P.O. Box 83720 • Boise, ID 83720-0037  
208/334-2270 • FAX: 208/334-2632  
e-mail: [board@osbe.state.id.us](mailto:board@osbe.state.id.us)

April 9, 2007

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PERFORMANCE EVALUATIONS

Mr. Rakesh Mohan  
Director, Office of Performance Evaluation  
700 West State Street  
Lower Level, Suite 10  
PO Box 83720  
Boise, ID 83720-0055

Re: Higher Education Residency Requirements

Dear Rakesh:

Thank you for the opportunity to inform you of the progress the State Board of Education (Board) has made toward accomplishing the goals outlined in the January 2004 Report on Higher Education Residency Requirements. The Board's Progress is as follows:

1. *The Legislature should consider amending Idaho code to clarify:*
  - a. *Whether full-time, nonresident students are presumed to be in Idaho primarily for educational purposes – unless they clearly demonstrate they are primarily engaged in activities other than those of a student*
  - b. *Whether nonresident students must establish and maintain a domicile in Idaho 12 months in order to qualify for residency*
  - c. *Whether students who are granted residency on the basis of their parents' Idaho domicile should be financially dependent upon their resident parents and be under a certain age*
  - d. *The factors needed to show that domicile has been established primarily for purposes other than education, including any weighting of the factors*

a. – d. As you know, Representative Henbest proposed legislation this year to clarify the residency questions. That legislation was held in committee by the Chairman of the Senate Education Committee. At the same time, the Chairman asked that the Board work with the institutions and Representative Henbest to bring forth legislation in 2008 to clarify the statute. Board staff is currently working with the institutions and intends to bring that legislation forward.

2. *The State Board of Education should address the lack of uniformity in determining residency and other related issues by:*
  - a. *Amending its administrative rules to provide a uniform residency determination process*

The Board will amend its administrative rules after the new statute has been passed in 2008. The rules will come before the legislature in 2009 for approval.

*b. Modifying the statewide Application for Admission form to conform to state law and rules*

Board staff worked with the institutions to create a uniform application form that is currently being used by all institutions. Board staff is currently working with the institutions to develop a second uniform application that will be used when residency is in question. Board staff expects to have this application complete by January 2008.

*c. Setting nonresident fees for part-time students in the same manner as for full-time students*

The Board will approve fee increases at their meeting on April 19 and 20. Agenda materials being presented to the Board will ensure that resident and non-resident fees are set in the same manner.

3. *Boise State University, Idaho State University, Lewis-Clark State college, and the University of Idaho should improve their residency determination process by:*
  - a. Implementing quality assurance measures that identify high-risk residency determination cases for further review*
  - b. Collecting information that addresses all residency factors listed in statute and rules, and basing residency determinations on full consideration of these factors*

a.– b. The Board recognizes that institutions are not interpreting statutes and rules in the same manner. The Board is hopeful that the new statutes will more clearly define residency. The Board will take additional steps by further clarifying residency in the rules they plan to adopt in 2008. Finally, if further clarification is needed, the Board will adopt policies to guide the institutions. With these three mechanisms in place, the Board will ensure that institutions are accurately and consistently determining residency in all cases.

Please let us know if we can provide any further information. Thank you.

Sincerely,



Karen L. Echeverria  
Deputy Director

Cc: Dr. Bob Kustra, President, Boise State University  
Dr. Arthur Vailas, President, Idaho State University  
Dr. Dene Thomas, President, Lewis-Clark State College  
Dr. Timothy White, President, University of Idaho  
Matt Freeman, Principal Budget Analyst, Budget and Policy Analysis  
Jane McClaran, Senior Analyst, Division of Financial Management

## Office of Performance Evaluations Reports Completed 2005–Present

Publication numbers ending with “F” are follow-up reports of previous evaluations. Publication numbers ending with three letters are federal mandate reviews—the letters indicate the legislative committee that requested the report.

<u>Pub. #</u>	<u>Report Title</u>	<u>Date Released</u>
05-01	Public Education Technology Initiatives	January 2005
05-02	Child Welfare Caseload Management	February 2005
05-01HTD	Use of Social Security Numbers for Drivers' Licenses, Permits and Identification Cards	February 2005
05-01F	Management of Correctional Data	March 2005
05-03	Idaho School for the Deaf and the Blind	October 2005
05-04	State Substance Abuse Treatment Efforts	December 2005
06-01	Management in the Department of Health and Welfare	February 2006
06-02	Idaho Student Information Management System (ISIMS)—Lessons for Future Technology Projects	August 2006
06-01F	Public Works Contractor Licensing Function	August 2006
06-02F	Idaho Child Care Program	August 2006
06-03F	Timeliness and Funding of Air Quality Permitting Programs	August 2006
06-04F	Fiscal Accountability of Pupil Transportation	August 2006
06-05F	School District Administration and Oversight	August 2006
06-06F	Public Education Technology Initiatives	August 2006
06-07F	Higher Education Residency Requirements	August 2006
07-01	Use of Average Daily Attendance in Public Education Funding	February 2007
07-02	Virtual School Operations	March 2007
07-03F	Higher Education Residency Requirements	July 2007
07-04F	State Substance Abuse Treatment Efforts	July 2007
07-05F	Idaho School for the Deaf and the Blind	July 2007
07-06F	Public Education Technology Initiatives	July 2007

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Office of Performance Evaluations • P.O. Box 83720 • Boise, ID 83720-0055  
Phone: (208) 334-3880 • Fax: (208) 334-3871